

40 KAR 1:030. Open records and open meetings decisions.

RELATES TO: KRS 61.846, 61.880

STATUTORY AUTHORITY: KRS 15.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.880 requires the Attorney General to issue legally binding decisions in disputes arising under the Open Records Law. KRS 61.846 requires the Attorney General to issue legally binding decisions in disputes arising under the Open Meetings Law. This administrative regulation is necessary in order to set forth the procedures to be used by the parties involved in such adjudications.

Section 1. Form. The Attorney General shall not consider a complaint that fails to conform to KRS 61.846(2), requiring the submission of a written complaint to the public agency and the public agency's written response, if the agency provided a response, and KRS 61.880(2), requiring the submission of a written request to the public agency and the public agency's written denial, if the agency provided a denial.

Section 2. Notice. Upon receiving a complaint, the Attorney General's Office shall send notice to the public agency that a complaint has been filed and a copy of the complaint. The agency may provide the Attorney General with a written response to the issues raised in the complaint. The agency shall send a copy of this response to the complaining party taking the appeal. If the agency fails to provide such copy, the Attorney General shall provide one upon request. The Attorney General shall consider any response received before the decision is prepared; however, the Attorney General shall not agree to withhold action on the complaint beyond the time limit imposed by KRS 61.846(2) and 61.880(2).

Section 3. Additional Documentation. KRS 61.846(2) and 61.880(2) authorizes the Attorney General to request additional documentation from the agency against which a complaint is made. If documents thus obtained are copies of documents claimed by the agency to be exempt from the Open Records Law, the Attorney General shall not disclose them and shall destroy the copies at the time the decision is rendered.

Section 4. Reconsideration. The Attorney General shall not reconsider a decision rendered under the Open Records Law or the Open Meetings Law. Parties dissatisfied with a decision may appeal the decision to circuit court as provided in KRS 61.880(5) and 61.848.

Section 5. Appeals. Each public agency against which an appeal to circuit court is filed shall notify the Attorney General of the appeal. The Attorney General shall not be made a party to an open meetings or open records appeal.

Section 6. Moot Complaints. If the requested documents are made available to the complaining party after a complaint is made, the Attorney General shall decline to issue a decision in the matter. (21 Ky.R. 1585; Am. 1880; eff. 2-8-95.)